



FAQ Number: 1769

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Question: My facility must perform background checks in accordance with the Risk-Based Performance Standard (RBPS) 12 “Personnel Surety” on affected individuals. Who is an affected individual?

Answer: Pursuant to the Chemical Facility Anti-Terrorism Standards(CFATS), Personnel Surety protocol requires facilities to “perform appropriate background checks on and ensure appropriate credentials for facility personnel, and as appropriate, for unescorted visitors with access to restricted areas and critical assets, including, (i) measures designed to verify and validate identity; (ii) measures designed to check criminal history; (iii) measures designed to verify and validate legal authorization to work; and (iv) measures designed to identify people with terrorist ties.” See 6 C.F.R. § 27.230(a)(12), available at: <http://www.ecfr.gov/cgi-bin/text-idx?SID=7fd8c9c0535dd4f50a6b2361f7c2940a&mc=true&node=pt6.1.27&rgn=div5>.

The CFATS rule requires two categories of individuals to undergo background checks. The Department refers to these as “affected individuals.” Specifically, affected individuals are:

- Facility personnel who have or are seeking access, either unescorted or otherwise, to restricted areas or critical assets; and
- Unescorted visitors who have or are seeking access to restricted areas or critical assets.

The regulatory text makes no distinction between facility personnel who are escorted and facility personnel who are unescorted, and uses the term “unescorted” to modify only the noun “visitors.” As such, if facility personnel have access, either unescorted or escorted, to restricted areas or critical assets, they are deemed to be affected individuals who must be screened for the purposes of the Personnel Surety protocol.